

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America

v.

Benjamin Padua Jr.

Date of Original Judgment: 2/23/2023

Date of Previous Amended Judgment: _____

(Use Date of Last Amended Judgment if Any)

Case No: 0419 3:22CR00002-001USM No: 80813-509

Pro se

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:


☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment
(as reflected in the last judgment issued) of _____ months **is reduced to** _____.

(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)

Except as otherwise provided, all provisions of the judgment dated 3/3/2023,
shall remain in effect.

IT IS SO ORDERED.

Signed: May 21, 2024


Frank D. Whitney
United States District Judge

Effective Date: _____

(if different from order date)

This page contains information that should not be filed in court unless under seal.
(Not for Public Disclosure)

DEFENDANT: Benjamin Padua Jr.
CASE NUMBER: 0419 3:22CR00002-001
DISTRICT: Western District of North Carolina

I. COURT DETERMINATION OF GUIDELINE RANGE (*Prior to Any Departures*)

Previous Total Offense Level: _____ Amended Total Offense Level: _____
Criminal History Category: _____ Criminal History Category: _____
Previous Guideline Range: _____ to _____ months Amended Guideline Range: _____ to _____ months

II. SENTENCE RELATIVE TO THE AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a substantial assistance departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☐ The reduced sentence is above the amended guideline range.

III. FACTORS CONSIDERED UNDER USSG § 1B1.10 AND 18 U.S.C. § 3553(a) (*See Chavez-Meza v. United States, 138 S.Ct. 1959 (2018)*)

Defendant is not eligible for a sentence reduction under Amendment 821 to the United States Sentencing Guidelines because “status points” were not applied to determine Defendant’s criminal history category in this case, and Defendant is not a “Zero-Point Offender” Even if Defendant were a “Zero-Point Offender,” he does not meet the criteria for a sentence reduction under § 4C1.1 of the Sentencing Guidelines due to the following exclusion under subsection (a)(6): the Defendant personally caused substantial financial hardship.